

REMARKS

The Examiner, Ms. Bena Miller, is thanked for the courtesies extended during the telephonic interview conducted on January 13, 2004, and for furthering the prosecution of the present application. During the interview, claim 1 and U.S. Patent No. 4,978,301 to *Dodge* were discussed. The following amendments and remarks expand on the substance of the telephonic interview. Claims 1-6, 8-13 are pending. Claim 1 has been amended. Claims 12 and 13 have been canceled, where the subject matter thereof has been incorporated into independent claim 1. No new matter has been added by way of this amendment. Accordingly, reconsideration of the application is respectfully requested.

Claims 1, 3, 4, 8, 9 and 11-13 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,978,301 to *Dodge*, while claim 10 stands rejected under 35 U.S.C. 103(a) as being unpatentable over the same reference. In addition, claims 2 and 5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Dodge* in view of U.S. Patent No. 5,330,379 to *Roh et al.* In response to these several grounds of rejection, Applicant has amended independent claim 1 to more clearly recite those features of the invention that distinguish it from the cited references. Accordingly, for the reasons set forth hereafter, Applicant respectfully submits that all claims of record now distinguish over the cited references.

Claim 1 has been amended to recite the limitations, "a fold-away flap integrally formed with and extending from each of said panels, said fold-away flap being hingedly movable between a first position having an exposed surface and a second, secure position that conceals said exposed surface, hook strips positioned on said exposed surface; wherein one of said panels attaches to another of said panels by use of said hook strips when said flap is in said first position to create the movable hinge, and wherein said flap of said one panel secures to that same panel when the flap is in the second position to

{W:\04186\000K549000\00020187.DOC  }

create a rigid attachment therebetween.”

A salient aspect of the invention resides in the placement of hook strips on fold-away flaps. The flaps are positionable to permit one panel to attach to another, and are also positionable to preclude panels from attaching to one another by instead attaching to its own panel. This permits soft sculptures to be constructed which include securely attached adjacent parts, detached adjacent parts, and, interestingly, hinged adjacent parts. The hinging action can result by attaching a panel to an adjacent panel along only one edge. In addition, when the panel along with the fold-away flaps are flipped, it becomes possible to attached the flap to the adjacent panel in a rigid manner. Moreover, because the fold-away flaps are integrally formed with each panel, sculptures can be constructed without the use of separate connector strips.

U.S. Patent No. 4,978,301 to *Dodge* relates to a set of construction pieces, wherein each construction piece has opposed major sides which are distinctively related in at least one and preferably two or more respects. According to this patent, the construction pieces have various shapes and colors, and may be removeably attached to one another to form self-supporting structures and designs (see col. 2, lines 12-19). As disclosed in col. 3, lines 39-41 of *Dodge*, each construction piece 12-20 and connector strip 22 has on one side loop pile fastener material and on the opposite side hook fastener material. As a result, adjacency of panels can result in an attachment. Here, separate connector strips are used to bridge panels (see Figs. 1 and 1a). However, *Dodge* fails to disclose “a fold-away flap that is integrally formed with and extends from each of said panels, where the fold-away flap is hingedly moveable between a first position having an exposed surface and a second-secure position that conceals the exposed surface,” or “hook strips positioned on said exposed surface; wherein one of said panels attaches to another of said panels by use of said hook strips when said flap is in said first position to create the movable hinge, and wherein said flap of said one panel secures to that same panel when the

flap is in the second position to create a rigid attachment therebetween,” as set forth in claim 1 as presently amended.

U.S. Patent No. 5,330,379 to *Roh* et al. relates to a toy that can be stored as a sofa having a bench, a backrest and a headrest that can be taken apart to build structures large enough for a child to crawl through or play in (see *Abs.*).

Set forth on page 3 of the Office Action is the statement that:

“Dodge teaches in the figures most of the elements of the disclosed invention, as noted above. However, Dodge fails to teach the panels comprising foam rubber. Roh teaches in figures 1-8 a construction set including panels made of foamed rubber (col. 2, lines 55-58). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use foamed rubber as taught by Roh for the panels of Dodge for the purpose of preventing injuries if the panels are thrown or stepped on (col. 2, lines 60-63).”

With respect to the foregoing, Applicant respectfully asserts that the *Roh et al.* patent fails to cure the deficiency of the *Dodge* patent. Specifically, this patent also fails to teach “a fold-away flap that is integrally formed with and extends from each of said panels, where the fold-away flap is hingedly moveable between a first position having an exposed surface and a second-secure position that conceals the exposed surface,” and “hook strips positioned on said exposed surface; wherein one of said panels attaches to another of said panels by use of said hook strips when said flap is in said first position to create a movable hinge, and wherein said flap of said one panel secures to that same panel when the flap is in the second position to create a rigid attachment therebetween” as set forth in claim 1 as amended.

For the foregoing reasons, whether considered individually or in combination, Applicant submits that the invention defined by the pending claims is neither anticipated nor rendered obvious over the cited references. Accordingly, reconsideration and withdrawal of the all the rejections are respectfully requested.

If there are any other issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: January 21, 2004

Respectfully submitted,

By: 

Alphonso A. Collins

Registration No.: 43,559

DARBY & DARBY P.C.

P.O. Box 5257

New York, New York 10150-5257

(212) 527-7700

(212) 753-6237 (Fax)

Attorneys/Agents For Applicant